

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

CHRISTOPHER MICHAEL BROOKS,)	
)	
Petitioner,)	
)	
v)	Civil Action No.1:07cv505-MHT
)	
JAMES DELOACH, WARDEN, <i>et al.</i> ,)	
)	
Respondents.)	

ORDER

This cause is before the court on petition for habeas corpus relief under 28 U.S.C. § 2254, in which the petitioner challenges convictions for trafficking in methamphetamine and the unlawful manufacture of a controlled substance entered against him by the Circuit Court of Houston County. In their answer filed with this court on June 27, 2007 (Doc. No. 5), the respondents assert that the petitioner has failed to exhaust state remedies with respect to claims presented in his habeas petition. Specifically, the respondents maintain that the petitioner may still present his claims of ineffective assistance of counsel to the state courts in a post-conviction petition filed pursuant to Rule 32, *Alabama Rules of Criminal Procedure*.

The law directs that a petition for writ of habeas corpus filed by “a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the [convicting] State....” 28

U.S.C. § 2254(1)(b)(1)(A). Upon review of the pleadings filed in this case, it appears that the petitioner has not yet exhausted his available state court remedies with respect to the ineffective assistance of counsel claims presented in his petition for habeas corpus relief. This court does not deem it appropriate to rule on the merits of the petitioner's claims without first requiring that the petitioner exhaust state remedies. *See* 28 U.S.C. § 2254(1)(b)(2). Accordingly, it is

ORDERED that on or before July 18, 2007, the petitioner shall show cause why his petition should not be dismissed for failure to exhaust state remedies.

Done this 27th day of June, 2007.

/s/Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE